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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,646	07/13/2000	Josh Hogan	10990815-1	4699

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EXAMINER	
BATTAGLIA, MICHAEL V	
ART UNIT	**PAPER NUMBER**
2652	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/615,646	HOGAN ET AL.	
	Examiner	Art Unit	
	Michael V Battaglia	2652	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attached Response to Arguments*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: *20*.

   Claim(s) rejected: *1-19 and 21-26*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Response to Arguments

Applicant's arguments filed December 21, 2004 have been fully considered but they are not persuasive. In response to Applicant's argument about the irrelevance of the Office action's observation of claim 1's omission of a limitation requiring the absence of edit gaps, the observation is relevant because it points out that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's arguments that the rejections confuse user data with pre-recorded address data, there is no confusion on Examiner's end because the pre-recorded address data and sync marks formed in the pregroove of Kobayashi is used to read on the claimed "header information" while only the user data of Kobayashi that is written in clusters is used to read on the claimed "user data". The rejections refer to the circuits of Kobayashi for reading the information in the pre-groove because those circuits (Fig. 14, elements 36, 37, 40 and 41) generate a clock (Fig. 14, CLOCK) that is supplied to each circuit and to a sector counter (Fig. 14, element 46) that is used to drive the spindle motor (Fig. 14, element 31 and Col. 9, lines 12-29). A shift or adjustment in the timing of the clock inherently produces a corresponding phase shift in the user data reproduced by the recording and reproducing circuit (Fig. 14, element 33) because the entire system (Fig. 14) including the recording and reproducing circuit is controlled by the clock (Col. 9, lines 12-13). Thus Examiner asserts neither that there is no difference between user data and pre-recorded address data nor that user data can be read using the circuits for reading the information in the pre-groove.

In regard to Applicant's arguments that Kobayashi does not teach user data being shifted by a phase difference between synthesized and recovered header information, the phase difference

detected by the phase comparator (Fig. 14, element 42) shifts user data by using the phase difference to adjust or shift the phase of the clock used by the recording and reproducing circuit to reproduce user data from the optical disc (Fig. 14, element 1). The phase difference detected by the comparator is between synthesized and recovered header information. The pregroove information including the sync marks read upon the claimed "header information". The mark cycle detection circuit (Fig. 14, element 40) generates pulses in synchronization with detected sync marks and supplies them to the phase comparator if the detected sync marks have constant period (Col. 8, lines 55-60). The phase comparator is part of a phase lock loop (PLL) circuit (Fig. 14, element 41). The PLL adjusts the phase of a clock used for reproduction to have the phase of the pulses generated by the mark cycle detection circuit. Therefore, if the detected sync marks have constant period, the phase of the PLL output matches the phase of the detected sync signals or detected header information. When the detected signals no longer have constant period, the mark cycle detection circuit generates pseudo pulses to replace the pulses synchronized and in phase with the detected sync marks (Col. 8, lines 60-62). The pseudo pulses are synthesized sync marks and, as a result, read upon the claimed "synthesized header information". The detected sync marks read upon the claimed "actual header information". Thus, when the detected sync marks or actual header information is no longer in constant period, the phase of the first pseudo pulse or synthesized header information generated is compared with the phase of the divided PLL output, which is synchronized to the phase of actual header information. The resulting phase difference between synthesized and detected header information shifts user data that is recovered from the disc by adjusting the phase of the clock used by the recording and reproducing circuit to reproduce user data.

The circuits that read the pre-recorded address information generate the read clock used for reading user information. A shift in the read clock generated by the circuits that read the pre-recorded address information causes a shift in the recovered user data.

The above explanation explains how Kobayashi phase shifts user data based upon a phase difference between actual and synthesized header information. The entire explanation (previous two paragraphs) is connected to user data because the explanation explains how the user data is phase shifted by the claimed phase difference. Further, Examiner thanks Applicant for noting the imprecise phraseology in explaining how Kobayashi reads upon the claimed invention in the explanation above. It is noted that the imprecise phraseology has been corrected.

Applicant's arguments regarding claims 2-19 and 21-26 are unpersuasive because they rely on the unpersuasive arguments that claim 1 is allowable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V Battaglia whose telephone number is (703) 305-4534. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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1/3/05